

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL MARR,

Plaintiff,

CASE NO.: 07-10931

v.

CITY OF DETROIT, *et al*,

HONORABLE PAUL V. GADOLA  
U.S. DISTRICT JUDGE

Defendants.

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**ORDER OVERRULING PLAINTIFF'S OBJECTIONS**  
**TO THE MAGISTRATE JUDGE'S ORDER**

On November 9, 2007, Plaintiff filed a motion to compel, arguing that Defendant City of Detroit had not complied with his requests for discovery. A telephonic hearing was held on this motion on June 23, 2008 by Magistrate Judge Steven D. Pepe. Magistrate Judge Pepe issued a written order on the same date.

The order indicates that for reasons more fully stated on the record, the City of Detroit is required to produce certain enumerated documents, if they exist at all, within ten days. The order also required, among other relief, that Plaintiff submit Requests for Admission, pursuant to Federal Rule of Civil Procedure 36, and that Defendant City of Detroit notify the Court once the responses are tendered.

On July 2, 2008, Plaintiff filed an "Objection to Order on Plaintiff's Motion to Compel." [docket entry #46.] Plaintiff argues that the order improperly limited him to a "one-shot approach" for discovery and, furthermore, that there is no allowance in the order for Plaintiff to file any motions following the discovery.

Nondispositive orders issued by a magistrate judge are governed by the terms of 28 U.S.C. § 636(b)(1)(A). This section states: “A judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate judge’s order is clearly erroneous or contrary to law.” 28 U.S.C. § 636(b)(1)(A). Rule 72(a) of the Federal Rules of Civil Procedure further provides:

**Nondispositive Matters.** When a pretrial matter not dispositive of a party's claim or defense is referred to a magistrate judge to hear and decide, the magistrate judge must promptly conduct the required proceedings and, when appropriate, issue a written order stating the decision. A party may serve and file objections to the order within 10 days after being served with a copy. A party may not assign as error a defect in the order not timely objected to. The district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.

Fed. R. Civ. P. 72(a).

According to the Supreme Court and the United States Court of Appeals for the Sixth Circuit, “[a] finding is ‘clearly erroneous’ when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” *United States v. Mandycz*, 200 F.R.D. 353, 356 (E.D. Mich. 2001) (Gadola, J.) (quoting *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 398 (1948); *Hagaman v. Comm’r of Internal Revenue*, 958 F.2d 684, 690 (6th Cir. 1992)).

In the present case, there can be no dispute that the matter considered by Magistrate Judge Pepe was a nondispositive matter. *See* E.D. Mich. LR 7.1(d)(1)-(2). Therefore, Plaintiff must demonstrate that the order was “clearly erroneous” or “contrary to law.” 28 U.S.C. § 636(b)(1)(A)/ Plaintiff, however, has failed to meet that standard. The order in question says nothing about the

discovery requested by Plaintiff being a “one-shot approach” nor does it include any language denying Plaintiff the opportunity to file additional motions once discovery is complete. Indeed, a review of the underlying motion considered by Magistrate Judge Pepe indicates that Plaintiff did not request an allowance to file additional motions. Therefore, Plaintiff’s objections will be overruled.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff’s objections [docket entry #46] to the June 23, 2008 order of Magistrate Judge Steven D. Pepe are **OVERRULED**.

**SO ORDERED.**

Dated: July 10, 2008

s/Paul V. Gadola  
HONORABLE PAUL V. GADOLA  
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on July 10, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

John A. Schapka, and I hereby  
certify that I have mailed by United States Postal Service the paper to the following non-ECF  
participants: Michael Marr.

s/Ruth A. Brissaud  
Ruth A. Brissaud, Case Manager  
(810) 341-7845